

City Council Introduction: **Monday**, March 25, 2002  
Public Hearing: **Monday**, April 1, 2002, at **1:30 p.m.**

Bill No. 02R-61

## **FACTSHEET**

**TITLE:** **SPECIAL PERMIT NO. 1423E**, an amendment to the **HIMARK ESTATES COMMUNITY UNIT PLAN**, requested by Dan Muhleisen on behalf of HiMark Development, Inc. and D & M Development, L.L.C., to adjust the side and rear yard setbacks on one lot, on property located at the west end of Merion Circle (generally located at So. 98<sup>th</sup> Street & Merion Circle).

**STAFF RECOMMENDATION:** Conditional approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 02/06/02  
Administrative Action: 02/06/02

**RECOMMENDATION:** Conditional approval (7-0: Bills, Carlson, Duvall, Krieser, Newman, Steward and Taylor voting 'yes'; Hunter and Schwinn absent).

### **FINDINGS OF FACT:**

1. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4, concluding that although similar in size when compared to the other lots on the cul-de-sac, Lot 120 is more shallow.
2. On February 6, 2002, this application was placed on the Consent Agenda of the Planning Commission and opened for public hearing. No one came forward to speak.
3. The Planning Commission agreed with the staff recommendation and voted 7-0 to recommend conditional approval, as set forth in the staff report dated January 23, 2002. The conditions of approval are found on p.4-5.
4. The Site Specific conditions of approval required to be completed prior to scheduling this application on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** March 20, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** March 20, 2002

**REFERENCE NUMBER:** FS\CC\2002\FSSP1423E

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Special Permit #1423E - HiMark Estates C.U.P.

**DATE:** January 23, 2002

**PROPOSAL:** To adjust the side and rear yard setbacks on one lot within the HiMark Estates Community Unit Plan.

**WAIVER REQUEST:** Side yard setbacks to 50'  
Rear yard setbacks to 50'

**LAND AREA:** 3.05 acres (Lot 7 120 (Lot 3, HiMark Estates 7<sup>th</sup> Addition))  
401.69 acres (HiMark C.U.P.)

**CONCLUSION:** Although similar in size when compared to the other lots on the cul de sac, Lot 120 is more shallow than they are.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 3, HiMark Estates 7<sup>th</sup> Addition, Located in Section 11, T9N, R7E, Lancaster County, Nebraska, generally located at west end of Merion Circle.

**LOCATION:** The west end of Merion Circle.

**APPLICANT:** HiMark Development, Inc. and  
D & M Development, L.L.C.  
6321 Doecreek Circle  
Lincoln, NE 68516

**OWNER:** HiMark Development, Inc. and  
D & M Development, L.L.C.

**CONTACT:** Dan Muhleisen  
6321 Doecreek Circle  
Lincoln, NE 68516  
(402) 483-5831

**EXISTING ZONING:** AG Agricultural within the HiMark Estates C.U.P.

**EXISTING LAND USE:** Vacant residential lot

## **SURROUNDING LAND USE AND ZONING:**

North: AG     Acreage lot and HiMark Golf Course  
South:     AG     Golf course  
East:       AG     Acreage lots  
West:       AG     Golf course

## **HISTORY:**

On **August 20, 2001**, City Council approved Special Permit #1423C, which increased the number of dwellings in the multi-family area from 240 to 272 and approved a site plan for the area.

On **March 28, 2001**, the Planning Department returned the application for Special Permit #1423D, which proposed installing gates across two private roadways within the development. It was determined that the public cannot be excluded from using the roadways because public access easements were granted over them.

On **July 27, 1998**, City Council approved Special Permit #1423B for the HiMark Estates Community Unit Plan, which included 507 dwelling units and a golf course.

On **April 29, 1998**, the applicant requested that Special Permit #1423A be withdrawn. The permit would have expanded the existing clubhouse and added a cart storage building to the HiMark Golf Course.

On **April 6, 1992**, the City Council approved Special Permit #1423 for a golf course.

This area was converted from A-A Rural and Public Use to AG Agricultural in the 1979 Zoning Update.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Plan identifies the acreage parcels on Merion Circle as Parks and Open Space; however, the lots were approved with the C.U.P. in 1998.

**UTILITIES:** Private wastewater systems and individual wells

**TOPOGRAPHY:** Lot 120 slopes downhill from east to west

**TRAFFIC ANALYSIS:** Merion Circle is a private roadway

**PUBLIC SERVICE:** County Sheriff and Southeast Rural Fire District

**ALTERNATIVE USES:** Single family house which fits within the existing yards

## **ANALYSIS:**

1. Although it is similar in size compared to the other lots on the Merion Circle cul de sac, Lot 120 is more shallow than they are.
2. The AG Agricultural zoning district requires the following yards:

Front	50 feet
Side	60 feet
Rear	100 feet

3. This application proposes reducing the required side and rear yards to 50 feet.
4. Currently, Lot 120 contains approximately 19,000 square feet of buildable area. Lot 119, the smallest of the other lots on the cul de sac, has approximately 45,000 square feet of buildable area.
5. If this application is approved, Lot 120 will contain approximately 49,000 square feet of buildable area - similar to what the other lots on the cul de sac are permitted.

## **CONDITIONS:**

### Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

#### 1.1 Revise the site plan to show:

- 1.1.1 In note 13, remove the note concerning the additional dwelling unit and add the Groundskeeper Residence to the list of dwellings.
- 1.1.2 Revise all references to the multi-family units to "272" - this was the number approved by Special Permit #1423C.
- 1.1.3 Remove the cart path from Lot 120 Block 2.
- 1.1.4 Revise Lot 22 Block 4 so that it reflects existing conditions.
- 1.1.5 Revise the legal description so that it refers to current lots instead of the original irregular tracts.

2. This approval permits 539 dwelling units and adjusts the side and rear yards on Lot 3 HiMark Estates 7<sup>th</sup> Addition to 50 feet (Lot 120 Block 2 on the Site Plan).

General:

3. Before receiving building permits:
  - 3.1 The permittee shall have submitted a revised and reproducible plan including 5 copies.
  - 3.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
  - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.
5. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Jason Reynolds  
Planner

**SPECIAL PERMIT NO. 1423E,  
AMENDMENT TO THE  
HIMARK ESTATES COMMUNITY UNIT PLAN**

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

February 6, 2002

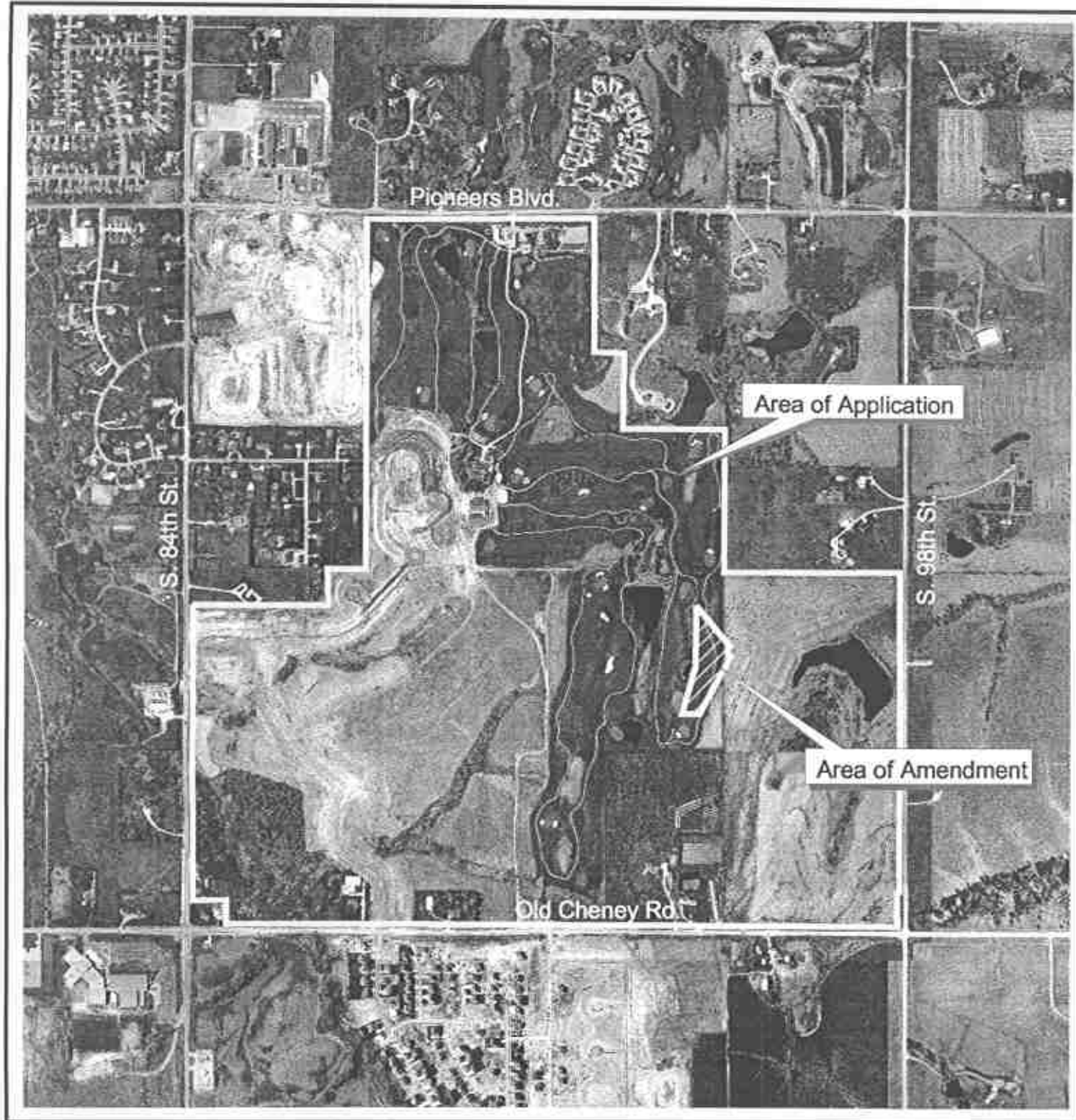
Members present: Bills, Carlson, Duvall, Krieser, Newman, Steward and Taylor; Hunter and Schwinn absent.

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 622E, SPECIAL PERMIT NO. 1423E, SPECIAL PERMIT NO. 1948 AND STREET AND ALLEY VACATION NO. 01025.**

**Item No. 1.4, Street and Alley Vacation No. 01025,** was removed from the Consent Agenda and scheduled for separate public hearing.

Carlson moved to approve the remaining Consent Agenda, seconded by Krieser and carried 7-0: Bills, Carlson, Duvall, Krieser, Newman, Steward and Taylor voting 'yes'; Hunter and Schwinn absent.

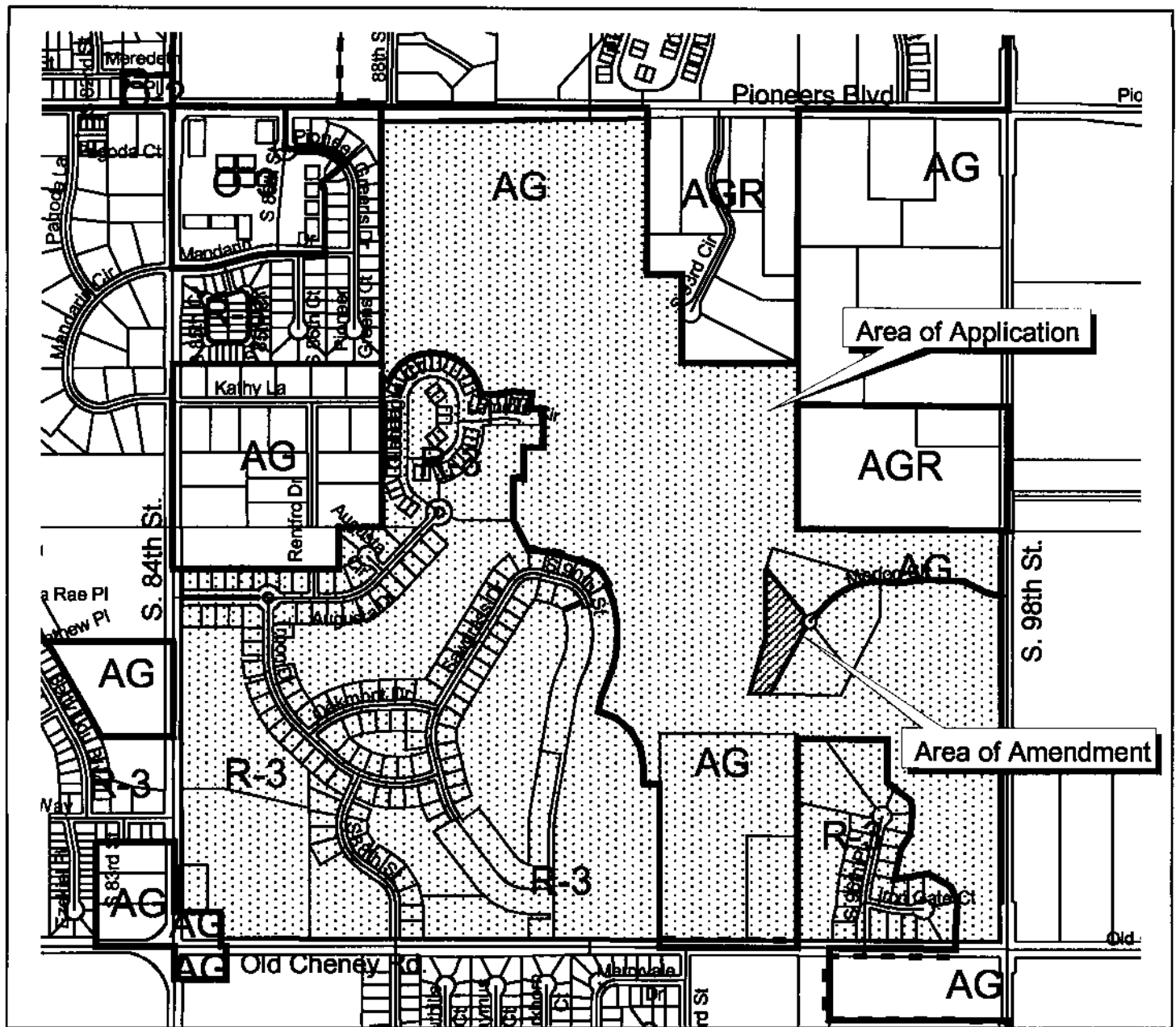
Note: This is final action on Special Permit No. 1948, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



**Special Permit #1423E**  
**HiMark Estates CUP**



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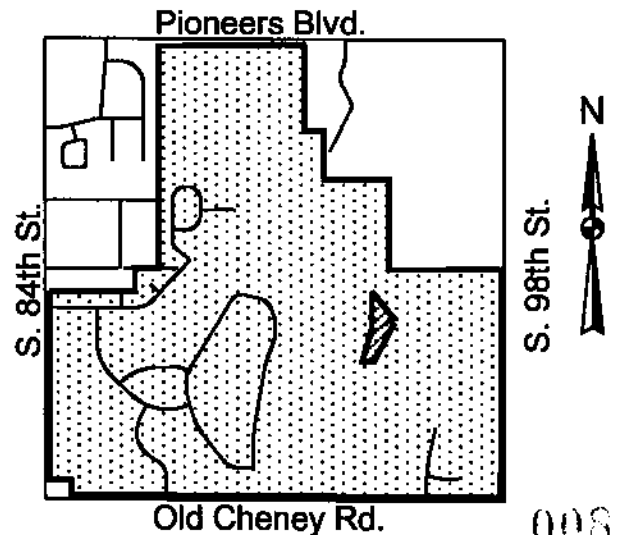
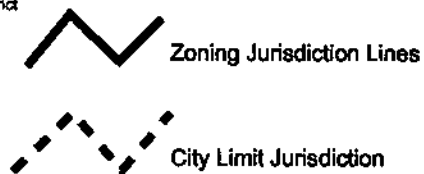


## Special Permit #1423E HiMark Estates CUP

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 11 T9N R7E





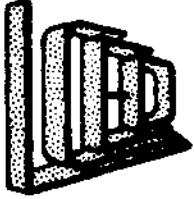


# M e m o r a n d u m

JAN 15 2002

**To:** Jason Reynolds, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities *Buff*  
**Subject:** Special Permit # 1423E, HiMark Estates 7th Addition  
**Date:** January 14, 2002  
**cc:** Roger Figard  
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the request for the reduction of the side and rear yards of Lot 120 Block 2 (actual legal description, Lot 3 HiMark 7th Addition) further described as 9600 Merion Circle. Public Works has no objections. There are no public utilities or roadways on this private street adjacent to this lot.



Lancaster

County

Engineering

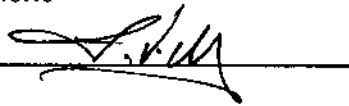
Department

DON R. THOMAS - COUNTY ENGINEER

DEPUTY- LARRY V. WORRELL  
COUNTY SURVEYOR

DATE: January 14, 2002

TO: Jason Reynolds  
Planning Department

FROM: Larry V. Worrell   
County Surveyor

SUBJECT: HIMARK ESTATES 7<sup>TH</sup> ADDITION  
SPECIAL PERMIT #1423E

JAN 15 2002

Upon review, this office has no direct objections to this submittal.

LVW/cm

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# D & M Development, LLC.



Dan Muhleisen  
6321 Doecreek Circle ♦ Lincoln, Nebraska 68516  
Phone (402) 483-5631

10 January 2002

Mr. Ray Hill  
Lincoln-Lancaster Co.Planning Dept.  
555 South 10th St.  
Lincoln, NE 68508

Re: Amendment to the HiMark Estates  
Preliminary Plat and C.U.P.

Dear Ray;

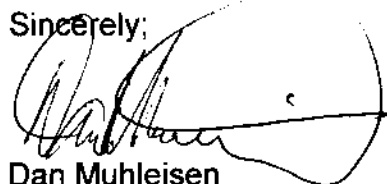
On behalf of the owners and developers of HiMark Estates I am requesting an Amendment to the Preliminary Plat and C.U.P. The only changes requested are to the setbacks on lot 120, block 2. We feel that these setback reductions will not have any adverse effect on adjacent neighbors or the golf course. I would hope that this plan could be reviewed and approved as quickly as possible, so that the owner of this lot could begin construction of his home.

Enclosed are the following:

- 1) Fifteen (15) copies of the revised site plan.
- 2) \$195.00 check for the application fee
- 3) Special Permit application

If you have any questions or need additional information please call.

Sincerely;



Dan Muhleisen

cc Dru Lammle  
Bruce Schwartz

